

REMARKS

The Final Office Action mailed September 14, 2006, has been received and reviewed. Claims 1-13 are currently pending in the application. Claims 1-13 stand rejected. Applicant has amended claim 1, and respectfully requests reconsideration of the application as amended herein.

35 U.S.C. § 102(e) Anticipation Rejections

Anticipation Rejection Based on U.S. Patent No. 6,771,700 to Razoumov et al.

Claims 1-13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Razoumov (U.S. Patent No. 6,771,700). Applicant respectfully traverses this rejection, as hereinafter set forth.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The 35 U.S.C. § 102(e) anticipation rejections of claims 1-13 are improper because the Razoumov reference does not describe, either expressly or inherently, the identical inventions in as complete detail as are contained in the claims. Since the Razoumov reference does not describe, either expressly or inherently, the identical inventions in as complete detail as are contained in the claims, the Razoumov reference cannot anticipate under 35 U.S.C. § 102 the presently claimed invention of independent claim 1, and claims 2-5 depending therefrom and independent claim 6, and claims 7-13 depending therefrom.

Claims 1-5

Applicant's invention as presently claimed in independent claim 1, from which claims 2-5 depend, recites:

1. A transmitter apparatus comprising:
 - a processor operative to control transmission and retransmission of data; and
 - a memory storage device operative for storing a plurality of computer-readable instructions, comprising:
 - a first set of instructions for receiving a transmission frame error rate and a retransmission frame error rate from a receiver;
 - a second set of instructions for ***determining a transmission energy setpoint as a function of the transmission frame error rate*** and a transmission quality,

wherein the determination of the transmission energy setpoint is responsive to an update trigger; and
a third set of instructions for ***determining a retransmission energy setpoint as a function of the retransmission frame error rate*** and a retransmission quality, wherein the determination of the retransmission energy setpoint is responsive to the update trigger. (Emphasis added.)

At least Applicant's claimed elements of "***determining a transmission energy setpoint as a function of the transmission frame error rate***" and "***determining a retransmission energy setpoint as a function of the retransmission frame error rate***" are not disclosed in the Razoumov reference. The Razoumov reference generally discloses a first transmission according to a first energy E1 and a second transmission according to a second energy E2.

The Final Office Action alleges:

With respect to claim 1, Razoumov discloses a transmitter apparatus (fig. 1) comprising:
a processor operative to control transmission and retransmission of data (fig. 3, processor 308); and
a memory storage device operable for storing a plurality of computer-readable instructions ..., comprising:
a first set of instructions ...;
a second set of instructions for *determining a transmission energy setpoint as a function of the transmission frame error rate (col. 4, lines 30-40, the transmitting station transmits information, contained in frames, with a first energy E1; wherein, E1 achieves FER1)* and the transmission quality ...; and
a third set of instructions for *determining a retransmission energy setpoint as a function of the retransmission frame error rate (col. 7, formula 22, wherein E3 is calculated as a function of received FER2)* (Final Office Action, pp. 2-4; emphasis added).

The alleged disclosure of Applicant's claimed elements of a "***determining a transmission energy setpoint as a function of the transmission frame error rate***" and "***determining a retransmission energy setpoint as a function of the retransmission frame error rate***" as some how being disclosed by the Razoumov reference's recitation of "energies E1 and E2 [being] properly selected", is not possible.

Specifically, and in contrast to Applicant's claimed invention, the Razoumov reference at the above citation specifically discloses the transmission of energies but does not disclose the "identical invention [] in as complete detail as is contained in the claim" as is required for anticipation under 35 U.S.C. §102. Specifically, the Razoumov reference discloses:

One method of achieving the required FER is retransmission. A transmitting station transmits information, contained in frames, with **a first energy (E_1)**. The transmitted information is received by a receiving station with a first FER1. The receiving station reports the first FER1 and identity of those frames received in error back to the transmitting station. The transmitting station **selects a second transmission energy (E_2)**, and re-transmits the frames received in error. The receiving station receives the frames with a second FER2. **When the energies E_1 and E_2 are properly selected**, the effective FER after the second transmission will be equal to the target FER. (Razoumov, col. 4, lines 30-40; emphasis added).

Clearly, the Razoumov reference discloses a first transmission according to a first energy E_1 and a second transmission according to a second energy E_2 . However, nothing within the Razoumov reference discloses Applicant's claimed invention of "***determining a transmission energy setpoint as a function of the transmission frame error rate***" and "***determining a retransmission energy setpoint as a function of the retransmission frame error rate***". In fact, the Final Office Action's statement above, namely, "***wherein E_3 is calculated as a function of received FER2***", concedes that a **subsequent energy** is a function of the **previous frame error rate (FER)**. However, Applicant's invention as claimed recites "***determining a transmission energy setpoint as a function of the transmission frame error rate***" and "***determining a retransmission energy setpoint as a function of the retransmission frame error rate***".

Therefore, since at least Applicant's claimed elements of "***determining a transmission energy setpoint as a function of the transmission frame error rate***" and "***determining a retransmission energy setpoint as a function of the retransmission frame error rate***" are not disclosed in "as complete detail as is contained in the claim" as is required for anticipation under 35 U.S.C. §102, the Razoumov reference cannot anticipate under 35 U.S.C. §102 Applicant's invention as presently claimed in amended independent claim 1, and claims 2-5 depending therefrom.

Accordingly, such claims are allowable over the cited prior art and Applicant respectfully requests that such rejections be withdrawn.

Claims 6-13

Applicant's invention as presently claimed in independent claim 6, from which claims 7-13 depend, recites:

6. In a wireless communication system, a method comprising:
determining a transmission energy setpoint to achieve a transmission frame error rate;

adjusting the transmission energy setpoint on occurrence of a transmission error,
wherein the transmission error is received from a receiver;
determining a retransmission energy setpoint to achieve a retransmission frame error rate;
and
adjusting the retransmission energy setpoint on occurrence of a retransmission error,
wherein the retransmission error is received from the receiver. (Emphasis added.)

At least Applicant's claimed elements of "*adjusting the transmission energy setpoint on occurrence of a transmission error*" and "*adjusting the retransmission energy setpoint on occurrence of a retransmission error*" are not disclosed in the Razoumov reference. The Razoumov reference generally discloses a first transmission according to a first energy E1 and a second transmission according to a second energy E2. Applicant herein sustains the above-proffered arguments regarding the lack of disclosure of "*adjusting the transmission energy setpoint on occurrence of a transmission error*" and "*adjusting the retransmission energy setpoint on occurrence of a retransmission error*".

Therefore, since at least Applicant's claimed elements of a "*adjusting the transmission energy setpoint on occurrence of a transmission error*" and "*adjusting the retransmission energy setpoint on occurrence of a retransmission error*" are not disclosed in "as complete detail as is contained in the claim" as is required for anticipation under 35 U.S.C. §102, the Razoumov reference cannot anticipate under 35 U.S.C. §102 Applicant's invention as presently claimed in independent claim 6, and claims 7-13 depending therefrom.

Accordingly, such claims are allowable over the cited prior art and Applicant respectfully requests that such rejections be withdrawn.

CONCLUSION

Claims 1-13 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicant's undersigned attorney.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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